

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Spangenberg Art Unit : Unknown
Serial No. : 10/580,868 Examiner : Unknown
International Filing Conf. No. : 7075
Date: : November 24, 2004
Title : ICE RECRYSTALLISATION INHIBITION PROTEIN OR ANTIFREEZE
PROTEINS FROM DESCHAMPSIA, LOLIUM AND FESTUCA SPECIES OF
GRASS

**POWER OF ATTORNEY BY ASSIGNEE
AND EXCLUSION OF INVENTOR(S) UNDER 37 C.F.R. 3.71
WITH STATEMENT UNDER 37 C.F.R. 3.73(b)**

The undersigned assignee of the above-identified subject application hereby appoints the registered attorneys at Fish & Richardson P.C. associated with customer no. 26181 as its attorneys to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71; provided that, if any one of these appointed attorneys ceases being affiliated with the law firm of Fish & Richardson P.C. as partner, counsel, or employee, then the appointment of that attorney and all powers derived therefrom shall terminate on the date such attorney ceases being so affiliated.

Please direct all correspondence for this application to the address associated with customer no. 26181.

The undersigned, on behalf of Agriculture Victoria Services Pty. Ltd. together with Australian Centre for Plant Functional Genomics Pty. Ltd., are the

- ☐ Applicant/Inventor
☒ Assignees of record of the entire interest. See 37 CFR 3.71.
(Statement under 37 CFR 3.73(b) is applicable)

Statement Under 37 C.F.R. 3.73(b)

Agriculture Victoria Services Pty. Ltd. states that it is:

- ☐ the assignee of the entire right, title, and interest; or
☒ an assignee of less than the entire right, title and interest.

The extent (by, percentage) of its ownership interest is 50%.

in the patent application/patent identified above by virtue of:

- ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office on _____ at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: the inventors To: State of Victoria

The document was recorded in the United States Patent and Trademark Office on _____ at Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: State of Victoria To: Agriculture Victoria Services Pty. Ltd.

The document was recorded in the United States Patent and Trademark Office on _____ at Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: Agriculture Victoria Services Pty. Ltd. To: Australian Centre for Plant Functional Genomics Pty. Ltd.

The document was recorded in the United States Patent and Trademark Office on _____ at Reel _____, Frame _____, or for which a copy thereof is attached.

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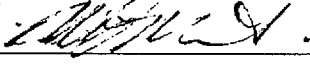
Attorney Docket No.: 21016-002US1

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ Copies of assignments in the chain of title are attached.

[Note: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the United States Patent and Trademark Office. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

	ASSIGNEE:	AUSTRALIAN CENTRE FOR PLANT FUNCTIONAL GENOMICS PTY. LTD.
Date: <u>1 May 2007</u>	Signature:	<u></u>
	Typed Name:	<u>MICHAEL JOHN GILBERT</u>
	Position/Title:	<u>GENERAL MANAGER</u>
	Address:	<u>PMD 1, GLEN OSMOND</u> <u>SOUTH AUSTRALIA 5064</u>

Fish & Richardson P.C.
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

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DEED OF ASSIGNMENT

THIS DEED is made the day it is executed by the last of the parties to execute it

BETWEEN

German SPANGENBERG of 56 Arthur Street,
Bundoora, Victoria 3083, Australia

Ulrik Peter JOHN of 19 Rucker Street,
Westgarth, Victoria 3070, Australia

Renata Martina POLOTONIANKA of 117
Easy Street, Collingwood, Victoria 3066,
Australia

("the Inventors")

AND

The State of Victoria ("the State")

AND

Agriculture Victoria Services Pty. Ltd. of 475
Mickleham Road, Attwood, Victoria 3049,
Australia ("**AVS**")

AND

**Australian Centre for Plant Functional
Genomics Pty. Ltd.** of Hartley Grove, Urrbrae,
South Australia 5064, Australia ("**ACPFG**").

RECITALS

- A. AVS is the applicant named in the provisional application for the grant of a patent set out in the Schedule ("**the Provisional Application**") in respect of the Invention, the title of which is set out in the Schedule ("**the Invention**").
- B. AVS and ACPFG are named as joint applicants in the international patent application, lodged under the Patent Cooperation Treaty, set out in the

Schedule ("the PCT Application"). The PCT application claims priority from the Provisional Application.

- C. The Department of Primary Industries ("DPI") is a department of the State. The Department Head of DPI is the employer of the Inventors. The Inventors made the invention in the course of their employment. Pursuant to the terms of the Inventors' employment, the whole of the rights in respect of the Invention vested in the State on the making of the Invention.
- D. Under the terms of an agreement between the State and AVS made prior to the filing of the Provisional Application, the State agreed to transfer its rights in relation to the Invention to AVS.
- E. Subsequent to the filing of the Provisional Application, but prior to the filing of the PCT Application, AVS agreed to assign a half share in its rights in respect of the Invention and the Provisional Application to ACPFG.
- F. On 24 November 2004, the Inventors, at the request of the State, executed a purported assignment of their rights in respect of the Invention to ACPFG and AVS jointly, and a second purported assignment of their rights in respect of the Invention to AVS, in an attempt to give effect to the agreements described in Recitals D and E.
- G. The parties have executed this deed to give effect to the agreements described in Recitals D and E.

ASSIGNMENT

- 1. AVS and ACPFG agree, that from the date of this Deed, any rights throughout the world in relation to:
 - (a) the Invention (including but not limited to the right to apply for the grant of a patent in respect of the Invention in any country of the world and the right to bring legal proceedings and to obtain any relief any infringement of rights in relation to the Invention which occurs before or after the date of this Deed); and

- (b) the Provisional Application, including but not limited to the right to claim priority from the Provisional Application in respect of applications made for the grant of a patent anywhere in the world; and
- (c) the PCT Application, including but not limited to the right to file any national phase and/or regional phase patent applications from the PCT application;

which were not held by them as tenants in common in equal shares at the date of this Deed shall be held by them as tenants in common in equal shares.

2. AVS assigns absolutely to ACPFG, at the date of this Deed, a half interest in any rights AVS may have throughout the world as the applicant for the Provisional Application (other than rights co-owned with AFCPG prior to the execution of this Deed), including but not limited to the right to claim priority from the Provisional Application in respect of applications made for the grant of a patent anywhere in the world.
3. For the avoidance of doubt, the Inventors and the State assign absolutely to AVS and ACPFG as tenants in common in equal shares, at the date of this Deed, the whole of any rights they may have throughout the world in relation to:
 - (a) the Invention (including but not limited to the right to apply for the grant of a patent in respect of the Invention in any country of the world, and the right to bring legal proceedings and to obtain any relief any infringement of rights in relation to the Invention which occur before or after the date of this Deed); and
 - (b) the Provisional Application, including but not limited to the right to claim priority from the Provisional Application in respect of applications made for the grant of a patent anywhere in the world; and
 - (c) the PCT Application, including but not limited to the right to file any national phase and/or regional phase patent applications from the PCT application.
4. Each of the Inventors and the State agrees to provide any assistance reasonably required by AVS and ACPFG in order to give full effect to this

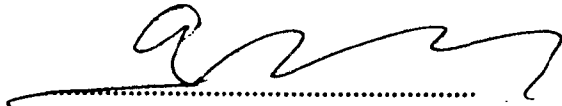
Deed (including but not limited to the execution of any documents). Each of the Inventors irrevocably appoints each of the directors of AVS and ACPFG as his or her attorney to do all acts and execute all documents which he or she is obliged to do or execute by this clause.

5. AVS and ACPFG shall be jointly responsible for paying the costs of preparation and execution of this Deed and for any stamp duty payable in respect of this Deed or the assignment.

SCHEDULE

COUNTRY	FILING DATE	NUMBER	TITLE
Australia	24 Nov. 2003	2003906477	Modification of plant response to freezing and low temperature stress
International	24 Nov. 2004	PCT/AU2004/001633	Modification of plant response to freezing and low temperature stress

**EXECUTED AS A DEED
SIGNED, SEALED AND DELIVERED by**



German SPANGENBERG

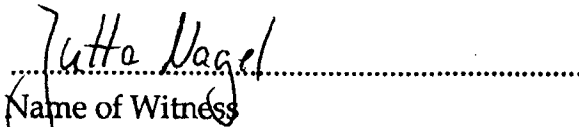


Ulrik Peter JOHN



Renata Martina POLOTONIANKA

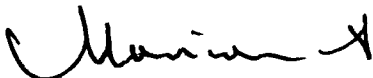
in the presence of


Name of Witness
(Signature of Witness)

Date: 21/08/2006

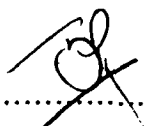
EXECUTED for and on behalf of
the State of Victoria
by its authorised officer

Alan Harrison
.....
(Name)


.....
(Signature)

Director Technology Commercialisation
.....
(Position)
Date: 14/9/06

EXECUTED for and on behalf of
Agriculture Victoria Services, Pty. Ltd.


by.....(Director/Secretary)
(Name) Mr Bruce Lang
Company Secretary

.....(Signature)

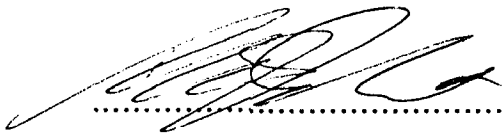
DR C. L. NOBLE
and by DIRECTOR.....(Director)
(Name)


.....(Signature)


Date: 14/9/06.

EXECUTED for and on behalf of
Australian Centre for
Plant Functional Genomics Pty. Ltd.

by.....MICHAEL GILBERT.....(Director/Secretary)
(Name)

.....(Signature)

and by.....PETER LANGRIDGE.....(Director)
(Name)

.....(Signature)

Date: 14/9/06